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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 008779

SIPDIS

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TAGS: PGOV PREL ECON TU

SUBJECT: TURKEY: NULLIFICATION OF ELECTION RESULTS IN SIIRT
OPENS A DOOR TO PARLIAMENT FOR AK LEADER ERDOGAN

Classified by Political Counselor John Kunstadter. Reason:
1.5(b)(d)

¶1. (U) Summary: Anatolia News Agency reports Dec. 2 that the Supreme Election Board (YSK), acting pursuant to a petition filed by the Justice and Development (AK) Party last month, has nullified the results of the Nov. 3 elections in southeastern Siirt province. Provided AK can push through the necessary constitutional and legal changes sufficiently before Feb. 2, when the new elections are expected, the YSK decision could open a door for AK leader Erdogan to enter Parliament -- and assume the prime ministership. End summary

¶2. (U) The YSK reasoned that ballot box review boards had not been established at three polling locations in Siirt's Pervari township; one ballot box was also unaccountably broken. In a written statement, the YSK explained that in accordance with Art. 39 of Election Law (aka Law No. 2839), it has decided unanimously that the problems in Pervari had an impact on the election results in Siirt, and that nullification of the results is therefore in order.

-- According to Election Law Art. 39, when the YSK nullifies election results in a province, new elections must be held on the first Sunday 60 days after publication of the decision in the Official Gazette.

-- Since the decision must be published "immediately" -- meaning according to accepted practice no later than Dec. 3 in this case -- elections in Siirt are therefore expected to be held on Sunday, Feb. 2.

Opening the Door to Erdogan -- and DEHAP?

¶3. (U) According to Anatolia News Agency, given the inapplicability of the 10 percent nationwide vote threshold a party must clear to enter Parliament, a 33 percent district barrier will govern the Siirt elections. Extrapolation from the Nov. 3 results suggests that of Siirt's three M.P.s, one would be elected from AK and two from the pro-Kurdish Democratic Peoples' Party (DEHAP), which had dominated the southeast but failed to get 10 percent nationally.

¶4. (C) Human rights groups -- the Human Rights Association (HRA) and Mazlum Der -- welcomed the decision. The HRA noted to us that allegations of abuse in Siirt suggested that election-day shenanigans in the province were even worse than previously thought. There were numerous violations beyond Pervari aimed, according to HRA, at undercutting DEHAP's prospects. Although the YSK seemed oblivious to DEHAP's allegations, the Dec. 2 decision was a good one from the human rights perspective in that it reverses the injustice done to Siirt voters.

¶5. (U) AK Vice Chairman Mercan told us Dec. 2 that the YSK decision could pave the way for AK leader R. Tayyip Erdogan to enter Parliament. He noted that first, AK would seek to change: 1) Constitution Article 76, which governs eligibility for office, and disqualifies those convicted of "anarchist and ideological activities" even if subsequently pardoned; and 2) Penal Code Article 312, under which Erdogan was stripped of his political rights for having been convicted of inciting religious/racial enmity. Mercan also said AK would seek to amend Constitution Article 78, which prohibits by-elections within 30 months of a general election. (Note: the Siirt election will legally be considered a "new" election, not/not a by-election. End note).

¶6. (C) A long-serving Justice of the Constitutional Court

(the Turkish Supreme Court) told us Nov. 22 that, procedurally, AK can make all the changes it wants in a month without much difficulty. All AK needs to do is establish the various parliamentary committees and start debating the issues. That said, AK has appeared to be dragging its feet for political reasons, trying to make sure its flanks are well protected before tackling politically difficult constitutional issues. The Justice asserted that in the interests of democratization and reform, it is imperative that Erdogan get into Parliament -- and become Prime Minister -- as soon as possible. The current divided situation, with Erdogan on the sidelines and Abdullah Gul serving as P.M., could cause problems down the road.

Comment

17. (C) Until now, Siirt's parliamentary contingent was split three ways: one each from AK and the Republican People's Party (CHP), and one independent -- the notorious Fadil Akgunduz, an accused swindler who campaigned for office to benefit from the generous grant of immunity given to M.P.'s under Turkish law. The YSK decision is likely to change that balance. While most observers seem to accept Erdogan's resurrection and assumption of the prime ministry as inevitable, many Establishmentarians will be concerned about the prospect that DEHAP could also find a voice (albeit a tiny one) in the legislature.

PEARSON